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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/015,011	12/11/2001	Michael Gauselmann	M-12388 US	2090

32566 7590 12/08/2004

PATENT LAW GROUP LLP
2635 NORTH FIRST STREET
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EXAMINER

ONEILL, MICHAEL W

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 12/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/015,011

Applicant(s)

GAUSELMANN, MICHAEL

Examiner

Michael O'Neill

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 24 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 13-30 and 33-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 13-30 and 33-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

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DETAILED ACTION***Response to Amendment***

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Drawings

The Examiner's objections to the drawings for not showing the claimed features is withdrawn because of the Applicant's submittal of amended drawings that were received on 4-14-04.

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the Draftsperson has objected to the drawings under Rule 84 or Rule 152, see PTO form 948 attached hereto. Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102/103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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The rejections of claims 1-9, 13-20, 23-28 and 33-35 under 35 U.S.C. 103(a) as being unpatentable over Brossard in view of Forbes is maintained and incorporated herein.

The rejections of claims 10, 11, 29 and 30 under 35 U.S.C. 103(a) as being unpatentable over Brossard in view of Forbes further in view of Luciano, Jr. et al. is maintained and incorporated herein.

The rejections of claims 21 and 22 under 35 U.S.C. 103(a) as being unpatentable over Brossard in view of Forbes further in view of Walker et al. is maintained and incorporated herein.

Claims 25-28 and 33-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brossard in view of Forbes further in view of Acres et al., USPN 5,876,284.

What the two former references disclose, teach and suggest to one of ordinary skill in the art has been previously discussed in prior Office actions and is incorporated herein.

Acres et al. teaches and suggests system for monitoring and configuring gaming devices interconnected over a high-speed network. Each gaming device includes a data communication node which allows the gaming device to communicate with a floor controller over a current loop network. The data communication network communicates with both the floor controller and the gaming device. In a multiple jackpot time bonus, the system

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activates a storm simulator which provides simulated lightning and thunder that vary in intensity with the value of a jackpot multiplier during a bonus period. The bonus jackpots are paid to players at the gaming device.

Thusly, based on the teachings of Acres et al. of linking plural gaming machines and providing a visual display means to inform the players that the machines are so linked, the claimed methods found herein would be obvious to one of ordinary skill in the art because "casinos are always eager to provide customers with new gaming experiences, it would be desirable to provide [a] notification [of one or more machines in a bonus mode] with audio and visual effects which entertain and stimulate the players and which progressively increase in intensity in proportion to the value of the bonus." See Acres et al. col. 1:66 through col. 2:4.

Response to Arguments

Applicant's arguments filed 5-14-04 and 11-24-04 have been fully considered but they are not persuasive.

The Applicant contends patentability of the claimed invention should lie on: the lamps being selectively illuminated during operation wherein during operation being a time when the gaming system is actively being played; said recitation being premise on the allegation that the prior art does meet the

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instant recitation because all lamps are lit and thus there is no selective illumination; Forbes doesn't teach the arrangement of lamps and their function as recited in the Applicant's claims; and Brossard does not disclose border lamps around any display that displays a game. The Examiner respectfully disagrees with the Applicant and will try to response to the contentions and allegations presented by Applicant *seriatim*.

Respectfully, as claimed and broadly interpreted in light of the specification, "selective illumination" does not preclude all lights being illumination, i.e. it is selected by the game machine to illuminate all lights meets "selective illumination". Defining "during operation" as being when the game is actively played is first an intended use and intended usage is considered by the Examiner; however patentability does lie in intended usage of a structure in an apparatus claim or method for using the apparatus. And further, nothing in the disclosure of the prior art used in the rejection precludes the prior art being capable of the exact same intended use claimed. Forbes was not being used to suggest or teach what the Applicant is contending. As clearly stated in the rejection of the claims: Forbes is being used to teach and suggest that it is well known to those skilled in the gaming arts to use colored lights to increase the visual effects of the gaming machines to attract players and

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keep players interest in the gaming machines. With respect to the last contention regarding Brossard's disclosure the Examiner as gone on the record for the Applicant to prove that the surrounding border be critical to the invention. The Applicant has not bother to demonstrated criticality through the use of an affidavit showing unexpected results. Instead, the Applicant provides conclusionary statements that an patent is deserving because the Applicant "doesn't see it" in the prior art.

In sum, following the Graham factors to the facts of this patent application; respectfully: placing colored lights around a game machine is something that the Examiner is not going to grant rights of exclusivity thereto because the prior art of record and the knowledge of those skilled in the art deem such a feat as obvious in the gaming machine arts in order to attract players and keep players at the gaming machine; thusly increasing revenue for the gaming machine operators, which is what every casino wants to do. It is suggested that the Applicant take the Application to appeal and argue the law to the Board of Patent Appeals and Interferences to see if the Board is persuaded by the legal arguments to grant a patent to said instant claimed inventions.

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Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael O'Neill whose telephone number is 571-272-4442. The examiner can normally be reached on Monday through Friday 8:30 am to 5 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan M. Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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MICHAEL O'NEILL
PRIMARY EXAMINER